

ATTACHMENT A

RULES AND REGULATIONS OF THE STATE BAR OF CALIFORNIA

ARTICLE I. CLASSES OF MEMBERSHIP--ANNUAL MEMBERSHIP FEES AND PENALTIES

Section 7. Waiver of Annual Membership Fees and Penalties

A. Any member, or any member's legal representative, spouse, ~~relative, law partner or associate,~~ or other person familiar with the pertinent facts ~~and circumstances,~~ may request a waiver of payment of the member's annual membership fee and/or penalties by submitting an application ~~therefor~~ in a form satisfactory to the secretary or designee and shall bear the burden of ~~showing~~ documenting specific facts and circumstances good cause in support of such request. ~~Unless excused by the secretary or designee, based on the secretary or designee's knowledge or evaluation of the probability that the facts on which an original waiver was granted still obtain, such an application shall also be required with regard to each request to waive the member's annual membership fee for each subsequent calendar year.~~

B. Waivers shall be considered separately for each calendar year. The secretary or designee shall grant a request to continue a waiver into a subsequent calendar year upon a showing satisfactory to the secretary or designee that those facts ~~and circumstances~~ upon which the waiver for the preceding year was granted still obtain. ~~and Multiple-year retro-active waivers which purport to waive the annual membership fees of members for more than one calendar year may be granted only by the Board Committee on Administration and Finance-Member Oversight or its designee or successor.~~

C. The following shall constitute good cause for the secretary or designee ~~may to~~ waive the payment of the ~~active or inactive~~ annual membership fee and/or penalties by any member: ~~upon a showing satisfactory to the secretary or designee, that:~~

~~(1) More than one of the following circumstances exist:~~

~~(a) "Retired status:" This term, as used in these rules, shall mean either:~~

~~(i) Inactive membership; or~~

~~(ii) Active membership which cannot be transferred to inactive status because of a medical condition which prevents the execution of forms necessary to effect such transfer.~~

~~(b) "Poor medical condition:" This term, as used in these rules, shall mean either a (i) physical and/or (ii) mental condition which prevents or greatly impairs the member from pursuing a livelihood.~~

~~(c) "Poor financial condition:" This term, as used in these rules, shall mean that the sources and amounts of income of the member are limited to any one or more of the following:~~

~~(i) Social Security;~~

~~(ii) Welfare;~~

~~(iii) Annual income obtained from the practice of law not to exceed \$2,000; or~~

~~(iv) income obtained from other sources not to exceed \$6,000.~~

~~In no event, however, shall the term "poor financial condition" apply if the total annual income from all sources of the member exceeds \$14,000; or~~

~~(2) Any of the following circumstances or conditions exist:~~

~~(a1) A member is on inactive status or has attained an age of at least 65 years and is in either "poor financial condition" or "poor medical condition," as herein defined.~~

~~(b2) A member is a retired judge who is assigned by the Chief Justice pursuant to [article VI, section 6, Constitution of California](#), for a minimum of 90% of the calendar year to and including the date of the application and such assignments are expected to continue at least at that rate.~~

~~(c3) Although no death certificate is available, it appears likely~~ Objective and reasonably certain evidence is present that a member is deceased.

(4) Staff error has caused the member to incur the fee assessment sought to be waived.

(5) The fee assessment sought to be waived is less than \$50.00 and is due to excusable inadvertence as herein defined.

(6) The member is inactive and attained the age of 70 years or more in the preceding calendar year.

G(7). The member ~~Payment of the active or inactive annual membership fee shall be waived for any member of the State Bar who~~ serves full time as a Federal Magistrate Judge, a California Court Commissioner, a California Court Referee, a U.S. Appellate Court Commissioner, or in another capacity to which the member is appointed by state or federal courts of record to perform judicial functions. The ~~State Bar~~ member seeking such a waiver must submit a written request for waiver by February 1st of the membership year, which shall remain in effect until the member provides written notice within thirty (30) days of the expiration or cessation of his or her judicial status justifying the waiver of fees. ~~The member must provide written notice within thirty (30) days of the expiration or cessation of his or her judicial status justifying the waiver of fees. The Board Committee on Administration and Finance or its designee may, upon petition of the member or its own motion, grant relief for a late request.~~

"Poor medical condition:" This term, as used in these rules, shall mean either a (i) physical and/or (ii) mental condition which prevents or greatly impairs the member from pursuing a livelihood for the year the waiver is requested.

"Poor financial condition:" This term, as used in these rules, shall mean that the income of the member from all sources ~~income~~ does not exceed \$20,000 annually for the year the waiver is requested.

~~The secretary or designee shall grant a request for waiver for a subsequent calendar year upon a showing satisfactory to the secretary or designee that those facts and circumstances upon which the waiver for the preceding year was granted still obtain.~~

~~The secretary or designee shall waive the annual membership fee for inactive members for any calendar year following the calendar year in which the member attains the age of 70 years.~~

D. ~~Any~~ member whose request for waiver of annual membership fees and/or penalties has been denied by the secretary or designee shall have the right to request the Board Committee on Administration and Finance Member Oversight or its designee or successor to review such denial.

E. ~~All requests for waiver which do not fall within the circumstances stated in subparagraph C of this section shall be submitted to the Board Committee on Administration and Finance on Member Oversight or its designee or successor with a recommendation by the secretary or designee for action by the Board Committee on Administration and Finance or its designee.~~

F.E. The Board Committee on Administration and Finance Member Oversight or its designee or successor ~~may~~ shall consider ~~all of the pertinent facts and circumstances~~ in determining whether there is good cause ~~for to granting a request for waiver request~~, including, without limitation, those presented by or on behalf of the member, the public purpose ~~which would be served by the member paying his or her fee and/or penalty and, in the case of an active member, his or her eligibility for inactive membership and physical and mental ability to execute the documents necessary for enrollment as an inactive member and the likelihood of enrollment as such a member pursuant to~~ [section 6007 of the Business and Professions Code](#). In ~~determining whether there is good cause~~ considering whether to renew a waiver submitted to it for a subsequent calendar year, the Board Committee on Administration and Finance Member Oversight or its designee or successor may consider ~~all of the facts and circumstances~~ pertinent to a renewal, including, without limitation, those presented by or on behalf of the member, those specified in the preceding paragraph, the facts ~~and circumstances~~ which constituted good cause for the waiver granted to the member for the preceding calendar year, and the probability, ~~if any~~, that those facts ~~and circumstances~~ have ~~not~~ materially changed in the interim.

F. In applying the good cause standard, the Board Committee shall be mindful of the important public policy supporting the assessment of membership fees and/or penalties and that waivers of or exceptions to this public policy should be granted in very limited circumstances, where substantial justification is presented and where the requesting member has not contributed to the asserted need for the exception in any material way. Waivers of disciplinary costs awarded under Business and Professions Code Section 6086.10, monetary sanctions awarded under Business and Professions Code Section 6086.13, Client Security Fund disbursements and costs recouped under Business and Professions Code Section 6140.5, mandatory fee arbitration award penalties and costs under Business and Professions Code Section 6203(d)(3), Minimum Continuing Legal Education (MCLE) noncompliance or reinstatement penalties under Business and Professions Code Section 6070 and the State Bar's MCLE Rules and Regulations which may have been added to the membership fee assessment shall not be waived under these rules.

G. In reviewing requests arising under Paragraph D above, the Board Committee and/or the Board of Governors shall consider waiver requests under \$1,000 per member on a consent agenda or equivalent basis. Waiver requests of \$1,000 or more per member shall be agendized for individual action. Once waivers granted by the Board and/or Board Committee under Paragraph D in any fiscal year total \$50,000, all further requests warranting Board or Board Committee review shall be agendized for individual Board action.

G. ~~Payment of the active or inactive annual membership fee shall be waived for any member of the State Bar who serves full time as a Federal Magistrate Judge, a California Court Commissioner or a California Court Referee. The~~

~~State Bar member seeking such a waiver must submit a written request for waiver by February 1st of the membership year. The member must provide written notice within thirty (30) days of the expiration or cessation of his or her judicial status justifying the waiver of fees. The Board Committee on Administration and Finance or its designee may, upon petition of the member or its own motion, grant relief for a late request.~~